



Federal Communications Commission
Enforcement Bureau
Investigations and Hearings Division
445 12th Street, S.W., Suite 4-C330
Washington, D.C. 20554

October 7, 2004

DA 04-3209

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

John Dotson
2850 Webb Avenue, Apt. 4H
Bronx, NY 10468

Re: Notice of Suspension and of Proposed Debarment
File No. EB-04-IH-0460

Dear Mr. Dotson:

The Federal Communications Commission ("FCC" or "Commission") has received notice of your conviction on or about May 17, 2004 pursuant to 18 U.S.C. § 371 for conspiracy to defraud the United States.¹ Specifically, you were convicted of conspiracy to violate the following laws of the United States: (1) 18 U.S.C. § 287 (false, fictitious, and fraudulent claims); (2) 18 U.S.C. § 1001 (false statements and entries generally); and (3) 18 U.S.C. § 1343 (fraud by wire, radio, or television). Consequently, pursuant to 47 C.F.R. § 54.521, this letter constitutes official notice of your suspension from the schools and libraries universal service support mechanism, also known as the E-Rate program. In addition, the Enforcement Bureau ("Bureau") hereby notifies you that we are commencing debarment proceedings against you.²

I. Notice of Suspension

Pursuant to section 54.521(a)(4) of the Commission's rules,³ your conviction requires the Bureau to suspend you from participating in any activities associated with or related to the

¹ Any further reference in this letter to "your conviction" refers to your conviction on or about May 17, 2004 of this count based on your participation in a fraudulent scheme to obtain schools and libraries E-Rate program funds. See *United States v. Dotson*, Docket No. 1:03cr01113BSJ, Indictment (S.D.N.Y. filed September 17, 2003) ("*Dotson Indictment*"); *United States v. Dotson*, Docket No. 1:03cr01113BSJ, Judgment (S.D.N.Y. May 17, 2004) ("*Dotson Judgment*").

² 47 C.F.R. § 54.521; 47 C.F.R. § 0.111(a)(14) (delegating to the Enforcement Bureau authority to resolve universal service suspension and debarment proceedings pursuant to 47 C.F.R. § 54.521).

³ 47 C.F.R. § 54.521(a)(4). See *Schools and Libraries Universal Service Support Mechanism*, Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202, 9225-9227, ¶¶ 67-74 (2003) ("*Second Report and Order*").

schools and libraries fund mechanism, including the receipt of funds or discounted services through the schools and libraries fund mechanism, or consulting with, assisting, or advising applicants or service providers regarding the schools and libraries support mechanism.⁴ Your suspension becomes effective upon the earlier of your receipt of this letter or publication of notice in the Federal Register.⁵

Suspension is immediate pending the Bureau's final debarment determination. You may contest this suspension or the scope of this suspension by filing arguments in opposition to the suspension, with any relevant documentation. Your request must be received within 30 days after you receive this letter or after notice is published in the Federal Register, whichever comes first.⁶ Such requests, however, will not ordinarily be granted.⁷ The Bureau may reverse or limit the scope of suspension only upon a finding of extraordinary circumstances.⁸ Absent extraordinary circumstances, the Bureau will decide any request for reversal or modification of suspension within 90 days of its receipt of such request.⁹

II. Notice of Proposed Debarment

A. Reasons for and Cause of Debarment

Commission rules establish procedures to prevent persons who have "defrauded the government or engaged in similar acts through activities associated with or related to the schools and libraries support mechanism" from receiving the benefits associated with that program.¹⁰ Based on your February 13, 2004 guilty plea, you were convicted on or about May 17, 2004 of conspiracy to defraud the Government by selling E-Rate services through Connect2Internet Networks, Inc. ("Connect2") to certain schools participating in the E-Rate program but charging 100 percent of the costs to the program rather than requiring the schools to pay ten percent of the costs as required by the program rules.¹¹ In particular, you admitted to combining, conspiring and carrying out, with other co-conspirators, the following acts: (1) falsely representing to certain schools that they could participate in the E-Rate program at no cost to them, and that their share of the costs would be covered by outside sources donated to Connect2 for that purpose; (2) requesting certain school officials to write checks payable to Connect2 while agreeing either not to cash them or to return those monies to the schools or their designees; and (3) creating back-dated phony billing documents that give the false appearance that Connect2 had billed the

⁴ *Second Report and Order*, 18 FCC Rcd at 9225, ¶ 67; 47 U.S.C. § 254; 47 C.F.R. §§ 54.502-54.503; 47 C.F.R. § 54.521(a)(4).

⁵ *Second Report and Order*, 18 FCC Rcd at 9226, ¶ 69; 47 C.F.R. § 54.521(e)(1).

⁶ *Second Report and Order*, 18 FCC Rcd at 9226, ¶ 70; 47 C.F.R. § 54.521(e)(4).

⁷ *Second Report and Order*, 18 FCC Rcd at 9226, ¶ 70.

⁸ 47 C.F.R. § 54.521(f).

⁹ *See Second Report and Order*, 18 FCC Rcd at 9226, ¶ 70; 47 C.F.R. §§ 54.521(e)(5), 54.521(f).

¹⁰ *Second Report and Order*, 18 FCC Rcd at 9225, ¶ 66.

¹¹ *See Dotson Indictment* at 2, 3; *Dotson Judgment*.

schools for their costs.¹² These actions constitute the conduct or transactions upon which this debarment proceeding is based.¹³ Moreover, your conviction on the basis of these acts falls within the categories of causes for debarment defined in section 54.521(c) of the Commission's rules.¹⁴ Therefore, pursuant to section 54.521(a)(4) of the Commission's rules, your conviction requires the Bureau to commence debarment proceedings against you.

B. Debarment Procedures

You may contest debarment or the scope of the proposed debarment by filing arguments and any relevant documentation within 30 calendar days of the earlier of the receipt of this letter or of publication in the Federal Register.¹⁵ Absent extraordinary circumstances, the Bureau will debar you.¹⁶ Within 90 days of receipt of any opposition to your suspension and proposed debarment, the Bureau, in the absence of extraordinary circumstances, will provide you with notice of its decision to debar.¹⁷ If the Bureau decides to debar you, its decision will become effective upon the earlier of your receipt of a debarment notice or publication of its decision in the Federal Register.¹⁸

C. Effect of Debarment

If and when your debarment becomes effective, you will be prohibited from participating in activities associated with or related to the schools and libraries support mechanism for at least three years from the date of debarment.¹⁹ The Bureau may, if necessary to protect the public interest, extend the debarment period.²⁰

Please direct any responses to the following address:

¹² *Dotson Indictment* at 4-5.

¹³ *Second Report and Order*, 18 FCC Rcd at 9226, ¶ 70; 47 C.F.R. § 54.521(e)(2)(i).

¹⁴ "Causes for suspension and debarment are the conviction of or civil judgment for attempt or commission of criminal fraud, theft, embezzlement, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice and other fraud or criminal offense arising out of activities associated with or related to the schools and libraries support mechanism." 47 C.F.R. § 54.521(c). Such activities "include the receipt of funds or discounted services through the schools and libraries support mechanism, or consulting with, assisting, or advising applicants or service providers regarding schools and libraries support mechanism described in this section ([47 C.F. R.] § 54.500 *et seq.*)." 47 C.F.R. § 54.521(a)(1).

¹⁵ *See Second Report and Order*, 18 FCC Rcd at 9226, ¶ 70; 47 C.F.R. §§ 54.521(e)(2)(i), 54.521(e)(3).

¹⁶ *Second Report and Order*, 18 FCC Rcd at 9227, ¶ 74.

¹⁷ *See id.*, 18 FCC Rcd at 9226, ¶ 70; 47 C.F.R. § 54.521(e)(5).

¹⁸ *Id.* The Commission may reverse a debarment, or may limit the scope or period of debarment upon a finding of extraordinary circumstances, following the filing of a petition by you or an interested party or upon motion by the Commission. 47 C.F.R. § 54.521(f).

¹⁹ *Second Report and Order*, 18 FCC Rcd at 9225, ¶ 67; 47 C.F.R. §§ 54.521(d), 54.521(g).

²⁰ *Id.*

John Dotson
October 6, 2004
Page 4 of 4

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Federal Communications Commission
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Room 4-A265
445 12th Street, S.W.
Washington, D.C. 20554

If you submit your response via hand-delivery or non-United States Postal Service delivery (e.g., Federal Express, DHL, etc.), please send your response to Ms. Lee at the following address:

Federal Communications Commission
9300 East Hampton Drive
Capitol Heights, MD 20743

If you have any questions, please contact Ms. Lee via mail, by telephone at (202) 418-1420 or by e-mail at diana.lee@fcc.gov. If Ms. Lee is unavailable, you may contact Eric Bash by telephone at (202) 418-1420 and by e-mail at eric.bash@fcc.gov.

Sincerely yours,

William H. Davenport
Chief
Investigations and Hearings Division
Enforcement Bureau

cc: Philip L. Weinstein, Federal Defender Division Legal Aid Society
Kristy Carroll, USAC
David M. Siegal, Assistant United States Attorney, Southern District of New York